

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

DAVID McCLOY,

Plaintiff,

v.

CORRECTION MEDICAL SERVICES
LAFLER, RIVARD, WASHINGTON,
DOVE, PATTON, AMY BURTON,
DIANE TEMPLE, WILKENS, and MORRIS,

Defendants.

Case No. 07-13839

David M. Lawson
United States District Judge

Michael Hluchaniuk
United States Magistrate Judge

**ORDER DENYING PLAINTIFF'S
MOTION AMEND/CORRECTION (Dkt. 81)**

Plaintiff, David McCloy, filed this lawsuit against defendants alleging violations of his constitutional rights pursuant to 42 U.S.C. § 1983. (Dkt. 1). Although his complaint is not entirely clear, apparently, plaintiff claims that defendants failed to provide him with regular and necessary insulin injections for his diabetes. (Dkt. 1). Plaintiff filed an application to proceed *in forma pauperis*, which was granted on October 26, 2007. (Dkt. 5, 7). District Judge David M. Lawson referred this matter for all pretrial purposes to Magistrate Judge R. Steven

Whalen on November 9, 2007. (Dkt. 9). This matter was reassigned to the undersigned on January 14, 2008. (Dkt. 14).

On September 17, 2008, plaintiff filed a “Motion to Amend/Correct.” (Dkt. 81). After a lengthy and largely incomprehensible motion, plaintiff asks the Court for a variety of relief: (1) the Court should “update” its standards of review for MDOC physicians; (2) the Court should pro-rate expenses for costs and discovery in order to give plaintiff “fair access” to the courts; (3) the Court should order defendants to pay for all deposition expenses; (4) the Court should provide a “fair jury” comprised of felons and non-felons; and (5) the Court should order the MDOC to defend cases without the assistance of the Michigan Attorney General. (Dkt. 81, p. 9). Defendants Burton and CMS filed a response on October 2, 2008, denying any wrongdoing and asserting that plaintiff’s motion is “vague” and “unintelligible.” (Dkt. 87).

With respect to expenses of litigation, plaintiff neither offers any factual basis nor any legal authority for this Court to require defendants to bear any of his litigation expenses. Section 1915(a)(1) of Title 28, United States Code, authorizes the Court to waive certain fees associated with litigation, but does not provide that the Court may require defendants to pay plaintiff’s discovery costs. Such costs of

litigation are to be borne by an indigent party. *See Vartinelli v. Caruso*, 2008 WL 4056316, *2 (E.D. Mich. 2008), citing, *Johnson v. Hubbard*, 698 F.2d 286, 289 (6th Cir. 1983) (holding that there is no constitutional or statutory requirement to waive an indigent prisoner plaintiff's costs of discovery); *Smith v. Yarrow*, 78 Fed.Appx. 529, 544 (6th Cir. 2003). Based on the foregoing, the Court **DENIES** request numbers 2 and 3 above. As to the remainder of plaintiff's requests, this Court is without the constitutional or statutory authority to grant such relief. Thus, plaintiff's remaining requests are **DENIED**.

IT IS SO ORDERED.

The parties to this action may object to and seek review of this Order, but are required to file any objections within 10 days of service as provided for in 28 U.S.C. § 636(b)(1) and Local Rule 72.1(d)(2). A party may not assign as error any defect in this Order to which timely objection was not made. Fed.R.Civ.P. 72(a). Any objections are required to specify the part of the Order to which the party objects and state the basis of the objection. Pursuant to Local Rule 72.1(d)(2), any objections must be served on this Magistrate Judge.

Date: December 18, 2008

s/Michael Hluchaniuk
Michael Hluchaniuk
United States Magistrate Judge

CERTIFICATE OF SERVICE

I certify that on December 18, 2008, I electronically filed the foregoing paper with the Clerk of the Court using the ECF system which will send electronic notification to the following: Ronald W. Chapman, David B. Mammel and Scott R. Rothermel, and I certify that I have mailed by United States Postal Service the paper to the following non-ECF participants: David McCloy, # 471229, Huron Valley Complex - Men's, 3201 Bemis Rd., Ypsilanti, MI 48197.

s/James P. Peltier
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